

In the United States District Court
for the Northern District of Illinois
Eastern Division

John Waldron,
Petitioner,

-vs-

Donald A. Hulick
Respondent.

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)
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No: 08 C 3277

M/H
FILED
JUL 10 2008 *aw*
7-10-2008
MICHAEL W. BOBBINS
CLERK, U.S. DISTRICT COURT

NOTICE OF APPEAL

Pursuant to Circuit Rule 3(a) notice is hereby given that petitioner, John Waldron, currently confined at Menard Correctional Center, Chester, IL in the County of Randolph, submits the following Notice of Appeal:

1. Petitioner hereby appeals to the United States Court of Appeals for the Seventh Circuit from the final judgement of the United States District Court, Northern District of Illinois, Eastern Division.

2. Final judgement was entered for the record in the above action on the 11TH day of JUNE, 2008.

Respectfully Submitted

John Waldron
John Waldron

7-6-08

SEVENTH CIRCUIT COURT OF APPEALS INFORMATION SHEET

Include the names of all plaintiffs (petitioners) and defendants (respondents) who are parties to the appeal. Use a separate sheet if needed.

NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION DOCKET NUMBER: 08 cv 3277

PLAINTIFF (Petitioner)

v.

DEFENDANT (Respondent)

Waldron/appellant	Hulick/appellee
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(Use separate sheet for additional counsel)

PETITIONER'S COUNSEL		RESPONDENT'S COUNSEL	
Name	John F. Waldron	Name	Chief of Criminal Appeals
Firm	pro-se #N-23690	Firm	Atty General's Office
Address	Menard - MND P.O. Box 711 Menard, IL 62259	Address	100 W. Randolph 12 th fl. Chgo.IL 60601
Phone		Phone	312) 814-2235

Other Information			
District Judge	Shadur	Date Filed in District Court	6/11/08
Court Reporter	J. Andrews 6899	Date of Judgment	6/11/08
Nature of Suit Code		Date of Notice of Appeal	7/10/08

COUNSEL: Appointed ☐ Retained ☐ Pro Se ☒

FEE STATUS: Paid ☐ Due ☐ IFP ☐
IFP Pending ☒ U.S. ☐ Waived ☐

Has Docketing Statement been filed with the District Court Clerk's Office? Yes ☒ No ☐

If State/Federal Habeas Corpus (28 USC 2254/28 USC 2255), was Certificate of Appealability:

Granted ☐ Denied ☐ Pending ☒

If Certificate of Appealability was granted or denied, date of order: _____

If defendant is in federal custody, please provide U.S. Marshall number (USM#): _____

IMPORTANT: THIS FORM IS TO ACCOMPANY THE SHORT RECORD SENT TO THE CLERK OF THE U.S. COURT OF APPEALS PURSUANT TO CIRCUIT RULE 3(A). Rev 04/01

MHW

FILED

JUL 10 2008 *new*
7-10-2008
MICHAEL W. GIBBINS
CLERK, U.S. DISTRICT COURT

In the United States District Court
for the Northern District of Illinois
Eastern Division

John Waldron,
Petitioner,

-vs-

Donald A Hulick,
Respondent.

No: 08 C 3277

DOCKETING STATEMENT

Pursuant to Circuit Rule 3(c)(1) and in compliance with Circuit Rule 28(a)(2), petitioner, John Waldron, currently confined at Menard Correctional Center, Chester, IL in the County of Randolph, submits the following Docketing Statement:

1. Petitioner's complaint invoked the District Court's Federal Question Jurisdiction under 28 U.S.C.A. Section 2254 et seq. Petitioner asserts that his pro se complaint stated a claim under 42 U.S.C.A. Section 1983, and the 14th and 6th Amendments to the Constitution of the United States.

2. 28 U.S.C.A. Section 2254 et seq. confers appellate jurisdiction on the Court of Appeals.

3. The judgment to be reviewed, an order denying the petitioner's petition for a writ of habeas corpus, was entered on JUNE 11TH, 2008.

4. The Notice of Appeal, dated 7-6, 2008 was timely filed.

Respectfully Submitted

John Waldron

John Waldron

**UNITED STATES DISTRICT COURT
FOR THE Northern District of Illinois – CM/ECF LIVE, Ver 3.2.1
Eastern Division**

John F Waldron

Plaintiff,

v.

Case No.: 1:08-cv-03277

Honorable Milton I. Shadur

Donald A. Hulick

Defendant.

NOTIFICATION OF DOCKET ENTRY

This docket entry was made by the Clerk on Wednesday, June 11, 2008:

MINUTE entry before the Honorable Milton I. Shadur: Enter Memorandum Order. In sum, "it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court". And that being so, the same Rule 4 directs that "the judge must dismiss the petition" – – and this Court does so. Motion to appoint counsel [4] is denied as moot; Motion for leave to proceed in forma pauperis[3] ifp denied. Petitioner is directed to pay the 36;5 filing fee. Civil case terminated. Mailed notice(srn,)

ATTENTION: This notice is being sent pursuant to Rule 77(d) of the Federal Rules of Civil Procedure or Rule 49(c) of the Federal Rules of Criminal Procedure. It was generated by CM/ECF, the automated docketing system used to maintain the civil and criminal dockets of this District. If a minute order or other document is enclosed, please refer to it for additional information.

For scheduled events, motion practices, recent opinions and other information, visit our web site at www.ilnd.uscourts.gov.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

UNITED STATES OF AMERICA ex rel.)	
JOHN WALDRON #N23690,)	
)	
Petitioner,)	
)	
v.)	No. 08 C 3277
)	
DONALD A. HULICK,)	
)	
Respondent.)	

MEMORANDUM ORDER

This Court has just been assigned the bulky pro se filing by John Waldron ("Waldron") of a 28 U.S.C. §2254¹ Petition for Writ of Habeas Corpus ("Petition"), brought to challenge Waldron's July 28, 1989 conviction of felony murder and other charges on which he is serving life and other sentences. Because the Petition is so clearly out of time under Section 2244(d)(1), Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts ("Section 2254 Rules") calls for its dismissal. As for Waldron's accompanying In Forma Pauperis Application ("Application"), this Court denies leave to proceed in forma pauperis (Waldron is apparently unaware that Section 2254 petitions require only a modest \$5 filing fee), while the accompanying Motion for Appointment of Counsel is denied as moot.

Needless to say, the existence of a state conviction that is nearly two decades old immediately raises a warning flag in terms

¹ All further references to Title 28's provisions will simply take the form "Section--."

of timeliness. But because Petition Pt. II refers to two state post-conviction proceedings brought by Waldron, one assertedly filed in 2001 and the other in 2005, and because the latter is listed as having been decided just last year, this Court tracked it down to see whether it might bring Waldron within the one-year limitation period prescribed by Section 2244(d)(1).

That is clearly not the case. Instead the decision of the Illinois Appellate Court for the Second District dealing with that proceeding, handed down July 11, 2007, described Waldron's state post-conviction efforts in these terms (375 Ill.App.3d 159, 160, 872 N.E.2d 1036, 1037):

On direct appeal, this court vacated two of defendant's convictions of first-degree murder but otherwise affirmed his convictions and sentences. People v. Waldron, 219 Ill.App.3d 1017, 1046-47, 162 Ill.Dec. 586, 580 N.E.2d 549 (1991). The facts of the case are recited in the direct appeal and will not be repeated here. Defendant filed a pro se postconviction petition on December 26, 2000. The dismissal of that petition as frivolous and patently without merit was affirmed by this court in a Rule 23 order issued on September 23, 2002, and corrected on October 29, 2002. In that order, this court modified defendant's sentences such that his two 60-year sentences would run concurrently with one another but consecutively to his natural life sentence. This court otherwise affirmed his sentences as modified.

On July 27, 2005, defendant filed a second pro se postconviction petition, seeking to have his 60-year sentences modified to run concurrently with his life sentence.

It is plain from that description that all issues raised in Waldron's first post-conviction proceeding are barred from

federal review under Section 2244(d)(1). And as for the second post-conviction proceeding, it is equally plain that the issues raised there do not jibe at all with any of the asserted federal constitutional claims that form the gravamen of Waldron's current Petition--so that the current Petition is also barred under Section 2244(d)(1).

One other matter needs to be touched on lightly. Petition Pt. II ¶1.I says that Waldron appealed the last Illinois Appellate Court decision, not by filing a petition for leave to appeal but by what he describes as a "state habeas corpus to Ill. Supreme Court instead." According to Waldron, that effort was also denied on May 20, 2008 by Dkt. No. 12051. But that of course did nothing to revive Waldron's overly stale claims.

In sum, "it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court" (Section 2254 Rule 4). And that being so, the same Rule 4 directs that "the judge must dismiss the petition"--and this Court does so.

Finally, because the Application must be and is denied, this Court is sending a copy of this memorandum order to the fiscal officer at Menard Correctional Center (where Waldron is in custody) so that the \$5 fee can be paid. That payment should be made to the "Clerk of Court," with this Case No. 08 C 3277 to be shown on the remittance, and mailed to this address:

Office of the Clerk
United States District Court
219 South Dearborn Street - 20th Floor
Chicago IL 60604

Attention: Fiscal Department

A handwritten signature in black ink, reading "Milton I. Shadur". The signature is written in a cursive, flowing style. It is positioned above a horizontal line that separates it from the printed name below.

Milton I. Shadur
Senior United States District Judge

Date: June 11, 2008

APPEAL, ASHMAN, TERMED

United States District Court
Northern District of Illinois - CM/ECF LIVE, Ver 3.2.1 (Chicago)
CIVIL DOCKET FOR CASE #: 1:08-cv-03277
Internal Use Only

Waldron v. Hulick
Assigned to: Honorable Milton I. Shadur
Cause: 28:2254 Petition for Writ of Habeas Corpus (State)

Date Filed: 06/11/2008
Date Terminated: 06/11/2008
Jury Demand: None
Nature of Suit: 530 Prisoner: Habeas
Corpus
Jurisdiction: Federal Question

Petitioner**John F Waldron**

represented by **John F Waldron**
N-23690
Menard - MND
P. O. Box 711
Menard, IL 62259
PRO SE

V.





Respondent

Donald A. Hulick
Warden

Service List

represented by **Chief of Criminal Appeals**
Attorney General's Office
100 West Randolph - 12 Floor
Chicago, IL 60601
ATTORNEY TO BE NOTICED

Date Filed	#	Docket Text
06/06/2008	<u>1</u>	RECEIVED Petition for Writ of Habeas Corpus and 1 copies by John F Waldron. (Exhibits) (jmp,). (Entered: 06/09/2008)
06/06/2008	<u>2</u>	CIVIL Cover Sheet. (jmp,) (Entered: 06/09/2008)
06/06/2008	<u>3</u>	MOTION by Petitioner John F Waldron for leave to proceed in forma pauperis. (Exhibits) (jmp,). (Entered: 06/09/2008)
06/06/2008	<u>4</u>	MOTION by Petitioner John F Waldron for appointment of counsel. (jmp,) (Entered: 06/09/2008)

06/06/2008	<u>7</u>	POST MARKED envelope for initiating document by John F Waldron (Document not scanned) (aew,) (Entered: 06/12/2008)
06/10/2008		MAILED copy of petition for writ of habeas corpus to Chief, Criminal Appeals Division. (jmp,) (Entered: 06/10/2008)
06/11/2008	<u>5</u>	MINUTE entry before the Honorable Milton I. Shadur: Enter Memorandum Order. In sum, "it plainly appears from the petition and any attached exhibits that the petitioner is not entitled to relief in the district court". And that being so, the same Rule 4 directs that "the judge must dismiss the petition" - - and this Court does so. Motion to appoint counsel <u>4</u> is denied as moot; Motion for leave to proceed in forma pauperis <u>3</u> ifp denied. Petitioner is directed to pay the \$5 filing fee. Civil case terminated. Mailed notice (srn,) (Entered: 06/11/2008)
06/11/2008	<u>6</u>	MEMORANDUM Order Signed by the Honorable Milton I. Shadur on 6/11/2008: Mailed notice (srn,) (Entered: 06/11/2008)
06/23/2008	<u>8</u>	NOTICE OF OBJECTIONS by John F Waldron to memorandum opinion and order <u>6</u> . (jmp,) (Entered: 06/25/2008)
07/10/2008	<u>9</u>	NOTICE of appeal by John F Waldron regarding orders <u>6</u> , <u>5</u> (ifp pending) (dj,) (Entered: 07/11/2008)
07/10/2008	<u>10</u>	DOCKETING Statement by John F Waldron regarding notice of appeal <u>9</u> (dj,) (Entered: 07/11/2008)
07/10/2008	 <u>11</u>	APPLICATION by Petitioner John F Waldron for certificate of appealability (dj,) (Entered: 07/11/2008)
07/10/2008	 <u>12</u>	APPLICATION by Petitioner John F Waldron for leave to appeal in forma pauperis with supporting documentation and order. (dj,) (Entered: 07/11/2008)
07/10/2008	 <u>13</u>	MOTION by Petitioner John F Waldron to appoint counsel (dj,) (Entered: 07/11/2008)
07/10/2008	 <u>14</u>	MOTION by Petitioner John F Waldron for production of record on appeal. (dj,) (Entered: 07/11/2008)
07/10/2008	<u>15</u>	DECLARATION under penalty of perjury by John Waldron; (Attachments: # <u>1</u> Notice of Filing)(dj,) (Entered: 07/11/2008)